

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**TEXAS FRIENDS CHABAD-
LUBAVITCH, INC.,
PLAINTIFF,**

V.

CIVIL ACTION NO. _____

**NOVA CASUALTY COMPANY
DEFENDANT.**

[JURY DEMANDED]

DEFENDANTS' NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant, NOVA CASUALTY COMPANY (herein "Defendant" or "Nova"), and files this, its Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 as follows:

I. PROCEDURAL HISTORY

1. On January 7, 2020, Plaintiff, Texas Friends of Chabad-Lubavitch, Inc. (herein "Plaintiff"), filed its Original Petition and initiated an action against Defendant, Nova Casualty Company, in the 333rd Judicial District Court of Harris County, Texas, in Cause No. 2020-00966 (the "State Court Action"). *See Exhibit "A"* attached hereto and incorporated herein by reference.
2. Defendant was served on January 8, 2020, with a copy of the Summons of Citation and Plaintiff's Original Petition. *See Exhibit "B"* for a copy of the Citation attached hereto and incorporated herein by reference.
3. Defendant filed an answer in the State Court Action on January 31, 2020. *See Exhibit "C"* attached hereto and incorporated herein by reference.

4. Defendant's Notice of Removal was filed on February 4, 2020, which is within the thirty-day statutory time period for removal allowed under 28 U.S.C. § 1446(b).

II. FACTUAL BACKGROUND

5. Defendant provided a commercial lines policy to Plaintiff under Policy No. CF1-ML-100001305-00 for the property located at 10900 Fondren Road, Houston, Texas 77096 (the "Property"), effective June 14, 2017, to June 14, 2018 (the "Policy").

6. This suit arises out of a claim for property damage caused by a weather event allegedly on or about August 30, 2017. Plaintiff allegedly sustained physical damage to the structures during this weather event and contends that Defendant underpaid the loss.

7. Defendant does not admit the underlying facts alleged by Plaintiff and expressly denies liability to Plaintiff.

III. DIVERSITY JURISDICTION

8. Plaintiff, Texas Friends of Chabad-Lubavitch, Inc., is a citizen of Texas because it is a non-profit corporation formed under the laws of Texas with its principal place of business in Texas.

9. Defendant, Nova Casualty Company, is a citizen of Massachusetts because it is company organized under the laws of New York with its principal place of business in Worcester, Massachusetts.

10. Removal is proper because there is complete diversity between the parties.

11. Venue is proper in the Southern District of Texas, Houston Division, because the property made the subject of the suit is located within the Houston Division.

12. The "matter in controversy" under 28 U.S.C. § 1332(a) is determined by reference to the plaintiff's pleadings. The damages the Plaintiff claims in its petition, if apparently claimed in good faith, are controlling. *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 288 (1938).

Plaintiff has pled that it seeks damages in excess of \$100,000.00 in its Petition at Paragraph No.

4. See Exhibit "A." Thus, the total economic damages and attorneys' fees being sought exceeds the \$75,000 jurisdictional minimum amount in controversy.

IV. INFORMATION FOR THE CLERK

13. Plaintiff: Texas Friends of Chabad-Lubavitch, Inc.

14. Defendant: Nova Casualty Company

15. The case is pending in the 333rd Judicial District Court of Harris County:
Judge Daryl L. Moore
Harris County Civil Courthouse
201 Caroline, 14th Floor
Houston, TX 77002
Phone: (832) 927-1800

16. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81, Defendant has attached copies of all processes and pleadings served upon it in the state court action. No further proceedings have been had therein. Pursuant to Local Rule 81, a copy of the trial court's docket sheet is attached as Exhibit "D" and an Index of Matters Being Filed is attached.

17. There are no other pleadings in state court.

18. Counsel for Plaintiff:
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19. Counsel for Defendant, Defendant:
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Jury Demand

20. Plaintiff demanded a jury trial in state court.
21. Defendant demanded a jury trial in state court and requests a trial by jury in federal court as well.

Miscellaneous

22. On the same day this Notice of Removal was filed, Defendants filed notice of this removal in the State Court Action. A copy of this Notice of Removal filed in the State Court Action is attached as Exhibit "E."
23. Because Plaintiff is a citizen of Texas; Defendant is a citizen of Massachusetts or New York; and the amount in controversy exceeds \$75,000, the Court has subject matter jurisdiction based on diversity of citizenship and residency. 28 U.S.C. § 1332. As such, this removal action is proper.

WHEREFORE, Defendant respectfully request that the above-entitled action be removed from the 333rd District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

PHELPS DUNBAR, LLP

By: /s/ Peri H. Alkas

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been served upon all known counsel of record as listed below by placing a copy of same in the United States mail, certified, return receipt requested, electronically, and/or hand delivery on February 3, 2020.

Hunter M. Klein
Robert D. Green
GREEN & KLEIN
440 Louisiana St., Suite 1900
Houston, TX 77002

VIA CM/RRR: 7016 1970 0001 1488 1585
& VIA E-MAIL: klein@greentriallaw.com
green@greentriallaw.com

/s/ Peri H. Alkas
Peri H. Alkas